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C O N F I D E N T I A L SECTION 01 OF 03 DILI 000126

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SUBJECT: HUMAN RIGHTS UNDER TIMOR-LESTE'S STATE OF EMERGENCY

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REASON: 1.4 (b), (d)

¶1. (C) Summary. Although the Government of Timor-Leste publicly directed the security forces to respect human rights during the State of Emergency imposed following the attacks on the President and Prime Minister on February 11, the Office of the Ombudsman (Provedor) has reported 17 instances of serious human rights violations, and has referred them to the police and Prosecutor General for further action. The Office of the Ombudsman reports that the police, military, and other authorities have generally cooperated with its inquiries. The Human Rights Division of the United Nations Integrated Mission In Timor-Leste (UNMIT) has recorded 47 such cases, although these have not been fully investigated. These mostly took the form of irregular searches and detentions. Beatings were reported, and there have been complaints about rough treatment of persons violating the curfew. One man was killed on April 5 when he threatened soldiers with a machete. Local NGOs have tended to downplay the incidents, saying that they were relatively few in number and were the result of poor training and misunderstanding, not conscious, systematic disregard for the law. They stress that violations committed since February 11 pale in comparison with the violence of the 2006 crisis and other traumas in Timor-Leste's history. End summary.

¶2. (U) On February 11, military dissidents led by the late Major Alfredo Reinado shot and seriously wounded Timor-Leste President Jose Ramos-Horta and attempted to kill Prime Minister Xanana Gusmao. In response, the GOTL formed a Joint Command between the National Police (PNTL) and Armed Forces (F-FDTL) to apprehend the attackers, and the National Parliament passed a law creating a State of Siege that imposed a curfew, relaxed legal requirements for searches and arrests, and restricted demonstrations. The law was renewed on February 22, and again on March 22 as a "State of Emergency" in slightly modified form. It was renewed again on April 22, but limited to the western district of Ermera, where the surviving perpetrators of the attacks remained at large. Since February 11, there have been reports that the security forces have committed violations of legal and human rights.

Ombudsman Fulfills Legal Mandate

¶3. (SBU) In an April 29 meeting with DCM, Silverio Pinto Baptista, Deputy Ombudsman, recalled that the Office of the Ombudsman had formed a team to monitor implementation of the State of Siege immediately after Parliament passed the relevant laws on February 11. Baptista said that his office had been afforded good access by the authorities, since the National Parliament had explicitly included a mandate for the Ombudsman in the legislation. To date, the Ombudsman prepared four reports containing findings and recommendations, and had forwarded them to the relevant national and international authorities in Timor-Leste.

¶4. (SBU) He confirmed that his office had reported 17 serious instances of human rights violations to the GOTL for further investigation and possible prosecution. These violations took the form of beatings, psychological abuse (e.g., death threats at gunpoint), unlawful searches and detention, and property damage caused by security forces. These violations, he said, had been committed by the Defense Forces (F-FDTL) and all units of the National Police: the UIR (Rapid Response Unit), URP (Police Reserve Unit), and Task Force (a special public security unit). He confirmed that there had been a concentration of reports of abuses in Ermera, and said that the Ombudsman had sent investigators to that district in mid-March, where they had found indications of political score-settling.

¶5. (SBU) Baptista said that with the February 11 attackers now in custody (reftel), the Office of the Ombudsman would now concentrate on effecting follow-up by relevant instances in the GOTL. In the coming days, he said, he would meet with the Prosecutor General and the head of the Joint Command to discuss further investigations into specific incidents and possible legal action. Baptista also planned to meet with the Ministry of Social Solidarity to discuss monetary reparations for victims

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who had suffered injuries or property damage. Finally, he said, the Office of the Ombudsman would encourage the GOTL to issue an official apology to those who had suffered violations.

UN Sees Broader Problem

¶6. (SBU) In an April 15 meeting with DCM, UNMIT Human Rights Unit Deputy Chief Daniela Baro (PROTECT) reported that her office had verified 47 complaints of human rights violations committed by the PNTL and F-FDTL since imposition of the State of Emergency. Baro said that while UNMIT had not conducted full-fledged investigations in all 47 cases, it had interviewed witnesses, taken photographs, or found other credible indications supporting allegations made.

¶7. (SBU) Baro said that the majority of these incidents had occurred during the first weeks of the State of Emergency, and that reports had dropped sharply in recent weeks. Only one incident had resulted in loss of life; this was the widely publicized April 5 incident in Atabae in which F-FDTL soldiers shot and killed a mentally ill man who refused to drop a machete. Almost all the other incidents consisted of ill-treatment during arrest or detention (33 cases); death threats, occasionally at gunpoint (11 cases); and unlawful or unjustified arrest or detention (21 cases). Ill-treatment typically took the form of beatings; none of the cases verified resulted in hospitalization, permanent disability, or broken bones. In six instances of mistreatment, passengers in vehicles stopped at checkpoints were forced to do push-ups.

¶8. (SBU) With regard to incidents involving arrest and detention, Baro said that the problem was often that persons were sometimes detained without explanation (as in the case of

former Minister for Natural Sources Jose Teixeira) or arrests without warrants. In all these cases, however, detainees were subsequently released.

¶9. (SBU) Baro said that most of these abuses had been committed by the PNTL, and attributed a far lower number of confirmed human rights violations to the F-FDTL, whether operating independently or as part of the Joint Command.

¶10. (SBU) Ms. Baro said that UNMIT has sent weekly reports to the office of Prime Minister Xanana Gusmao, the Joint Command, and the Secretary of State for Defense and Security. Although there has been no GOTL follow-up as yet, the Prime Minister has publicly acknowledged that abuses had occurred and cautioned the security forces to respect human rights. The UN, Ms. Baro said, would eventually issue a public report on the situation, but this would not be until June.

Local NGOs Not Alarmed

¶11. (SBU) Jose Oliveira, director of the human rights NGO HAK, argued that any fair assessment of the state of emergency must consider historical context. Timor-Leste was still in the early stages of developing the rule of law, he said, and the GOTL's handling current state of emergency compared very favorably with the last political crisis in 2006. Prime Minister Xanana Gusmao, in contrast to former PM Alkatiri, had adhered to the law and constitution in imposing the state of emergency. Oliveira pointed out that some MPs were now criticizing emergency legislation that they themselves had voted for.

¶12. (SBU) Oliveira conceded that particularly in Ermera, political score settling appeared to be influencing the security forces behavior, and that "emotional self-control" was still a problem.

¶13. (SBU) Timotio de Deus, Executive Director of the Judicial System Monitoring System (JMPS), also offered a balanced assessment. JMPS is Timor-Leste's most respected rule of law NGO, and while it did not systematically monitor implementation of the state of emergency, it nonetheless tracked developments. De Deus strongly defended the state of siege as necessary and justified, and praised statements by Prime Minister Xanana Gusmao and the Ombudsman calling on the security forces to uphold human rights. He downplayed some actions of the Task Force and Joint Command, such as forcing curfew violators to perform push-ups, saying that these were necessary to enforce

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the measures.

¶14. (SBU) De Deus said he was concerned by reported beatings by the F-FDTL in the village of Letefoho, Ermera District. Although these incidents took place under the pretext of searching for perpetrators of the February 11 attacks, de Deus said that this appeared to be a case of political score-settling. He said that 13 persons had been beaten, two of them quite seriously, and the victims were now afraid to report the matter to authorities. De Deus said his information on the cases was reliable, but he had not met with the victims himself.

¶15. (SBU) De Deus said that he was also concerned about irregular detentions, but said that he believed these had occurred not out of any willful intent to disregard the law, but rather because legal requirements were misunderstood. He added that overall, he believed that the violations were not massive or systematic, and that it would be an adequate corrective if the authorities followed up on abuses reported by the Ombudsman.

¶16. (SBU) Christopher Samson, leader of the Timorese human rights and anti-corruption NGO LABEH, was relatively unconcerned about the issue. He defended the state of emergency as a necessary measure following the February 11 attacks, and claimed that many allegations of abuses remained unconfirmed. While

acknowledging that abuses had taken place, he noted that these incidents had not been "institution-directed," but were rather aberrations. With regard to the April 5 fatality in Atabae, Samson said that while this incident was unfortunate, he could understand why the F-FDTL felt threatened.

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